

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Milford Bennington Railroad
Co., Inc., et al.

v.

Civil No. 10-cv-264-PB

Pan Am Railways, Inc., et al.

O R D E R

On today's date, a preliminary pretrial conference was held in this case. The following attorneys of record appeared: Craig Donais for the plaintiffs and Michael Connolly for defendants. Peter Leishman accompanied Mr. Donais, and Robert Burns, Esq., attended with Mr. Connolly.

The central discovery dispute before the court is whether to place this case on an expedited or standard track. Plaintiffs request an expedited track due to the prospect of the permanent loss of business in the event the case takes twelve more months to resolve. Defendants request a standard track. The court places this case on a standard track but will grant plaintiffs an expedited hearing on their request for a preliminary injunction. Plaintiffs' newly-amended complaint

(doc. no. 28) is captioned as a request, at least in part, for injunctive relief. Plaintiffs agree to file, on or before April 1, 2011, a separate motion for a preliminary injunction and a request for hearing thereon. Defendants agree to file an objection thereto on or before April 11, 2011. A hearing on plaintiffs' motion will then be scheduled for April 29, 2011. In the interim, the parties agree to conduct limited expedited discovery related to that motion.¹

Defendants have filed a motion to dismiss plaintiffs' amended complaint (doc. no. 32), which, if granted, would terminate the case. Plaintiffs' objection to the motion to dismiss is due on April 11, 2011. Defendants request that the court consider their motion to dismiss in advance of, or contemporaneously with, plaintiffs' soon-to-be-filed motion for a preliminary injunction.

Having resolved the question of which track to place this case on, the court next addressed the specific dates in the proposed discovery plan. As discussed with counsel, the court approves the proposed Joint Discovery Plan (document no. 27) with the following amendments:

¹ In the event that plaintiffs do not file a motion for a preliminary injunction on or before April 1, 2011, the April 29, 2011, hearing will not be scheduled.

Track Assignment: Standard - 12 months.

Dates of Disclosure of Experts and Experts' Written Reports and Supplementations:

Plaintiffs: June 15, 2011

Defendants: July 15, 2011.

Plaintiffs' Supplementations: July 15, 2011

Defendants' Supplementations: August 15, 2011

Completion of Discovery: September 30, 2011.

Joinder and Third Parties: October 1, 2011.

Amendment of Claims/Defenses: October 1, 2011.

Non-Dispositive and Threshold Motions: November 30, 2011.

Dispositive Motions: Summary Judgment: August 29, 2011.

Trial Date: Two-week period beginning January 4, 2012.

The parties concurred with respect to each of the
aforementioned amendments.


Landye B. McCallferty
United States Magistrate Judge

Date: March 29, 2011

cc: James P. Ball, Esq.
Christopher H.M. Carter, Esq.
Michael J. Connolly, Esq.
Craig S. Donais, Esq.
Kevin E. Verge, Esq.